



BILLING CODE 410-9R

DEPARTMENT OF AGRICULTURE

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary (OSEC), Department of Agriculture.

ACTION: Notice of new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the Office of the Secretary (OSEC), a component within the United States Department of Agriculture (USDA or “the Department”), proposes to develop a new system of records notice titled, “USDA Personnel Public Health Emergency Records System.” USDA/OSEC-01 proposes to establish this system of records to protect the Department’s workforce and respond to Coronavirus Disease 2019 (COVID-19), a declared public health emergency, and other high-consequence public health threats.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below.

ADDRESSES: The public, OMB, and Congress are invited to submit any comments by mail to the United States Department of Agriculture, Privacy Office, ATTN: Privacy Analyst, 1400 Independence Ave SW, Washington, DC 20250; by telephone at 202-384-5026; or by email at SM.OCIO.CIO.UsdaPrivacy

FOR FURTHER INFORMATION CONTACT: Sullie Coleman, Chief Privacy Officer, 1400 Independence Ave SW, Washington, DC 20250, 202-604-0467.

SUPPLEMENTARY INFORMATION: This system of records covers information necessary and relevant to Department activities responding to and mitigating COVID-19 and other high-consequence public health threats, and diseases or illnesses relating to a public health emergency. Such information may include information on Department personnel, including employees, interns, contractors, and cooperators, who have contracted or may have been exposed to a suspected or confirmed disease or illness that is the subject of a declared public health emergency or who undergo preventative testing for, or receive a vaccination to prevent, a disease or illness that is the subject of a declared public health emergency, in accordance with federal, state, or local public health orders. The information collected may include identifying and contact information of individuals who

have been suspected or confirmed to have contracted a disease or illness, or who have been exposed to an individual who had been suspected or confirmed to have contracted a disease or illness, related to a declared public health emergency; individual circumstances and dates of suspected exposure; testing results, symptoms, and treatments; vaccination records; health status information; and other information necessary and relevant to Department activities responding to and mitigating COVID–19 and other high-consequence public health threats and diseases or illnesses relating to a public health emergency. The Department maintains this information to understand the impact of an illness or disease on the Department workforce, and to assist in reducing the spread of the disease or illness among Department personnel. In certain instances, depending on the type of record collected and maintained, records maintained in this system of records may also be covered by Office of Personnel Management/Government-10 Employee Medical File System Records, 75 FR 35,099 (June 21, 2010). However, USDA/OSEC –01 covers additional records—specifically records collected in response to COVID–19, a high-consequence public health threat, as well as other declared public health emergencies.

When collecting information on Department employees, there are several employment laws that govern the collection, dissemination, and retention of employee medical information. These employment laws include the Americans with Disability Act (ADA), the Rehabilitation Act of 1973 (Rehab Act), and the Occupational Safety and Health Act of 1970 (OSH Act). Generally, under federal employment laws, medical information pertaining to employees is confidential and may be obtained by an employer only for certain reasons and only at certain points in the employment relationship. In response to a high-consequence public health threat such as COVID–19, or relating to other public health emergencies, an employer may be permitted to collect certain employee medical information that it would not otherwise be permitted to collect, depending upon the circumstances. This system of records will apply if it is determined that the circumstances permit the Department to legally collect the employee medical information at issue.

Further, this system of records notice (SORN) includes a reference to the Genetic Information Nondiscrimination Act of 2008 (GINA), 42 U.S.C. 2000ff to ff-11. Title II of GINA prohibits employment discrimination based on genetic information, including family medical history; restricts the circumstances under which employers may lawfully acquire

applicants' and employees' genetic information; and prohibits the disclosure of applicants' and employees' genetic information, with limited exceptions, including those stated in 42 U.S.C. 2000ff-5(b) and 29 CFR 1635.9(b). The Department may request the circumstances of an individual's suspected or actual exposure to a disease or illness, including the source of exposure. Although it is not the intent for the Department to collect family medical information, an individual may indicate that they were exposed to specific family members who have been diagnosed with, or are suspected to have, the disease or illness in question. To the extent this information may be acquired inadvertently, such information will be kept as a "confidential medical record" and maintained separately from an employee's general medical files, pursuant to 42 U.S.C. 2000ff-5(a) and 29 CFR 1635.9(a).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this new system of records. Dated: November 1, 2021. **Sullie Coleman**, Chief Privacy Officer United States Department of Agriculture.

SYSTEM NAME AND NUMBER: USDA Personnel Public Health Emergency Records System, USDA/OSEC - 01.

SECURITY CLASSIFICATION:

Controlled Unclassified Information.

SYSTEM LOCATION:

Micro-Soft (MS) 365 Multi-Tenant (MT) provides Exchange and SharePoint Access for USDA Personnel Public Health Emergency Records. Tenant locations are defaulted to Geo based on the country. In the United States, these records may be maintained electronically at one or more of Microsoft Data Centers, including, but not limited to, Boydton, Virginia and Cheyenne, Wyoming. The agency, US Department of Agriculture, address is 1400 Independence Ave SW, Washington, DC 20250 and the address of the third-party service provider is Microsoft, 1 Microsoft Way, Redmond, Washington 98052-6399.

SYSTEM MANAGER:

Contact information of the agency official who is responsible for this system is USDA OCIO-CEC MS 365 Program Manager, 2312 E Bannister Road, Mail Stop 9198, Kansas City, MO 64114, 816-926-6860.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Workforce safety federal requirements, including the Occupational Safety and Health Act of 1970, Executive Order No. 12,196, Occupational safety and health programs for Federal employees, 5 U.S.C. 7902; federal laws related to a specific public health emergency or high-consequence public health threat, including, (1) Executive Order No. 13994, Ensuring a Data-Driven Response to COVID–19 and Future High-Consequence Public Health Threats, (2) Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees, (3) Executive Order 12196, Occupational Safety and Health Program for Federal Employees, (4) 5 U.S.C. chapters 33 and 63, (5) the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) as amended, 5 U.S.C. 8901 implemented at , 7 C.F.R. Part 7 and (6) federal laws that authorize the Attorney General to create and maintain federal records of agency activities, including 5 U.S.C. 301 and 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to maintain records necessary and relevant to Department activities responding to and mitigating COVID–19, other high consequence public health threats, or diseases and illnesses relating to a public health emergency. Such records include those records needed to understand the impact of an illness or disease on the Department workforce, and to assist in protecting the Department’s workforce from, and responding to, a declared public health emergency or other high-consequence public health threats. Among other things, USDA may use the information collected to facilitate the provision of vaccines to USDA personnel, including employees, interns, contractors, and cooperators; to inform individuals who may have been in proximity of a person possibly infected with the disease or illness at or on buildings, grounds, and properties that are owned, leased, or used by the Department; or to confirm which personnel have received vaccinations to prevent such disease or illness to spread throughout the Department’s workforce.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department personnel, including employees; non-Federal County Office (CO) employees in the Farm Service Agency (FSA) and elected or appointed FSA County and State Committee members; interns; contractors; and cooperators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in this system may include:

- A. Full name, telephone number, worksite, email address, supervisor's name, address, and contact information and/or the contractor/cooperator's supervisor/contracting officer representative name, address, and contact information.
- B. Date(s) and circumstances of the individual's suspected or actual exposure to disease or illness including symptoms, as well as locations within the Department workplace where an individual may have contracted or been exposed to the disease or illness.
- C. Other individual information directly related to the disease or illness (*e.g.*, testing results/information, symptoms, treatments such as vaccines, and source of exposure).
- D. Appointment scheduling information, including the date, time, and location of a scheduled appointment.
- E. Medical screening information, including the individual's name, date of birth, age, category of employment, current medical status, vaccination history, and any relevant medical history.
- F. Vaccination records, including the date, type, and dose of vaccine administered to the individual.
- G. Records related to accommodations for exception for medical treatment or vaccinations.

RECORD SOURCE CATEGORIES:

Records may be obtained from USDA personnel, interns, contractors, and cooperators who may provide relevant information on a suspected or confirmed disease or illness, or the prevention of such disease or illness, which is the subject of a declared public health emergency. Information may also be sourced from personnel at medical facilities, or from existing systems of records, including but not limited to OPM/GOVT-10, Employee Medical File System Records, 75 FR 35,099 (June 21, 2010), and modified at 80 FR 74,815 (Nov. 30, 2015).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the

purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

A. To appropriate medical facilities, or federal, state, local, tribal, territorial, or foreign government agencies, to the extent permitted by law, for the purpose of protecting the vital interests of individual(s), including to assist the United States Government in responding to or mitigating high consequence public health threats, or diseases and illnesses relating to a public health emergency.

B. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

C. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

D. To contractors, cooperators, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

E. To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

F. To Federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

G. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

H. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

I. To appropriate agencies, entities, and persons when

(1) the Department suspects or has confirmed that there has been a breach of the system of records.

(2) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

J. To another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in

(1) responding to a suspected or confirmed breach, or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

K. To any agency, organization, or individual for the purpose of performing authorized audit or oversight operations of the Department and meeting related reporting requirements.

L. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

All records in this system of records are maintained electronically and in paper and are in compliance with applicable executive orders, statutes, and agency implementing recommendations. Electronic records are stored in databases and/or on hard disks, removable storage devices, or other electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The Department will retrieve records by any of the categories of records, including, but not limited to, name, location, date of vaccination, or work status.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

To the extent applicable, to ensure compliance with Americans with Disabilities Act (ADA), the Rehabilitation Act, and the Genetic Information Nondiscrimination Act of 2008 (GINA), medical information must be “maintained on separate forms and in separate medical files and be treated as a confidential medical record.” 42 U.S.C. 12112(d)(3)(B); 42 U.S.C. sec 2000ff-5(a); 29 CFR 1630.14(b)(1), (c)(1), (d)(4)(i); and 29 CFR 1635.9(a). This means that medical information and documents must be stored separately from other personnel records. As such, the Department must keep medical records for at least one year from creation date. 29 CFR 1602.14. Further, records compiled under this SORN will be maintained in accordance with NARA General Records Schedule (GRS) 2.7, Items 010, 070 or 080, and NARA records retention schedules DAA-GRS2017-0010-0001, DAA-GRS2017-0010-0012, and DAA-GRS2017-0010-0013, to the extent applicable.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The Department safeguards records in this system according to applicable rules and policies, including all applicable USDA automated systems security and access policies. The Department has imposed strict controls to minimize the risk of compromising the information that is being stored. Users of individual computers can only gain access to the data by a valid user identification and password. Paper records are maintained in a secure, access-controlled room, with access limited to authorized personnel.

RECORD ACCESS PROCEDURES:

All requests for access to records must be in writing and should be addressed to the USDA Departmental FOIA Office, ATTN: Departmental FOIA Officer, 1400 Independence Avenue, SW South Building, Room 4104, Washington, DC 20250-0706, Email: USDAFOIA@ocio.usda.gov The envelope and letter should be clearly marked “Privacy Act Access Request.” The request must describe the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort. The request must include a general description of the records sought and must include the requester’s full

name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury. Additional details on procedures for access under the Privacy Act can be found in USDA Department Regulation 3515-002 Privacy Policy and Compliance for Personally Identifiable Information (PII) or at Privacy Policy and Compliance for Personally Identifiable Information (PII) ([usda.gov](https://www.usda.gov)).2

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the address indicated in the “RECORD ACCESS PROCEDURES” paragraph, above. All requests to contest or amend records must be in writing and the envelope and letter should be clearly marked “Privacy Act Amendment Request.” All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record. Additional details on procedures for contesting or amending records under the Privacy Act can be found in USDA Department Regulation 3515-002 Privacy Policy and Compliance for Personally Identifiable Information (PII) or at Privacy Policy and Compliance for Personally Identifiable Information (PII) ([usda.gov](https://www.usda.gov)).2

NOTIFICATION PROCEDURES:

Individuals may be notified if a record in this system of records pertains to them when the individuals request information utilizing the same procedures as those identified in the “RECORD ACCESS PROCEDURES” paragraph, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None

Sullie Coleman,

Chief Privacy Officer,

United States Department of Agriculture.

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